

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CV-2-D

VALENCCELL, INC.,)
Plaintiff,)
v.) **ORDER**
FITBIT, INC.,)
Defendants.)

On April 20, 2016, Valencell, Inc. (“Valencell”), proposed consolidating this case with Valencell, Inc. v. Apple Inc., No. 5:16-CV-1-D (E.D.N.C. filed Jan. 4, 2016). [D.E. 25] 1–2. On May 17, 2016, Apple, Inc. (“Apple”), moved to transfer its case to the Northern District of California. Mot. to Transfer, Valencell, Inc. v. Apple Inc., No. 5:16-CV-1-D (E.D.N.C. May 17, 2016) [D.E. 30].

On June 1, 2016, Fitbit, Inc. (“Fitbit”), moved to transfer this case to the Northern District of California [D.E. 32] and filed a memorandum in support [D.E. 33]. On June 24, 2016, Valencell responded in opposition [D.E. 39]. On July 11, 2016, Fitbit replied [D.E. 40]. On July 25, 2016, Valencell moved to strike new arguments made in Fitbit’s reply [D.E. 41] and filed a memorandum in support [D.E. 42]. On August 18, 2016, Fitbit responded to Valencell’s motion to strike [D.E. 44].

Fitbit’s motion to transfer was explicitly premised on the court granting Apple’s motion to transfer. See [D.E. 32, 33]. On February 6, 2017, the court denied Apple’s motion to transfer. Order, Valencell, Inc. v. Apple Inc., No. 5:16-CV-1-D (E.D.N.C. Feb. 6, 2016) [D.E. 127].

The court has considered the motion to transfer under the governing standard. See 28 U.S.C. § 1404(a); Trustees of the Plumbers and Pipefitters Nat'l Pension Fund v. Plumbing Servs., Inc., 791 F.3d 436, 444 (4th Cir. 2015). Fitbit's motion to transfer [D.E. 32] is DENIED. Valencell's motion to strike [D.E. 41] is DENIED as moot.

The court will hold an in-person case management conference on February 28, 2017, at 1:00 p.m. in Valencell, Inc. v. Apple Inc., No. 5:16-CV-1-D. On that date, the court also will hold an in-person case management conference for this case at 2:00 p.m. in courtroom one of the Terry Sanford Federal Building and United States Courthouse, 310 New Bern Avenue, Raleigh, North Carolina. The parties are directed to confer and submit proposed revisions to the schedule no later than February 21, 2017.

SO ORDERED. This 6 day of February 2017.



JAMES C. DEVER III
Chief United States District Judge